

**Internal Revenue Service**

Number: **200711007**

Release Date: 3/16/2007

Index Number: 9100.22-00, 1503.04-04

Department of the Treasury  
Washington, DC 20224

Person To Contact:

, ID No.

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Refer Reply To:

**CC: INTL PLR-132536-06**

Date: December 4, 2006

Taxpayer =

Entity 1 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

aa =

bb =

cc =

CPA Firm 1 =

CPA Firm 2 =

Dear

In re: PLR-132536-06

This is in response to a letter dated June 19, 2006, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i), as applicable (“Elections”) and annual certifications under Treas. Reg. § 1.1503-2(g)(2)(vi)(B) or Treas. Reg. § 1.1503-2T(g)(2)(vi)(B) as applicable (“Annual Certifications”), for Years 1 through 4 with respect to dual consolidated losses attributable to the Taxpayer’s interest in Entity 1. Additional information was received in a letter dated November 10, 2006. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Taxpayer retained CPA Firm 1 to prepare its                      and                      consolidated returns. CPA Firm 1 failed to advise Taxpayer that elections pursuant Treas. Reg. § 1.1503-2(g)(2)(i) were necessary with respect to Entity 1’s                      and                      dual consolidated losses. CPA Firm 1 also failed to advise Taxpayer that an annual certification pursuant to Treas. Reg. § 1.1503-2(g)(2)(vi)(B) was necessary for Entity 1’s                      dual consolidated loss.

Taxpayer’s in-house personnel prepared its                      tax return. Taxpayer’s in-house personnel did not consider whether any of Entity 1’s losses required the filing of an election or certification. Taxpayer retained CPA Firm 2 to review its                      return. CPA Firm 2’s review of the return did not identify any requirement for Taxpayer to file either an election or annual certifications with the return.

Taxpayer’s in-house personnel prepared its                      tax return and retained CPA Firm 2 to review the return. At the time of the                      return was prepared, the discovery of the failure to file elections and annual certifications with respect to the dual consolidated losses incurred in Years 1 through 3 had been made. Accordingly, the Year 4 return included an election with respect to the dual consolidated losses incurred in that year. CPA Firm 1 advised Taxpayer’s in-house personnel that an annual certification for Entity 1’s prior years dual consolidated losses would be invalid because no elections had been made with respect to those losses. Therefore, no annual certification was filed for the Year 1 through 3 dual consolidated losses incurred by Entity 1.

The interest in Entity 1 is a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). Dual consolidated losses of Amount aa for Year 1, Amount bb for Year 2 and Amount cc for Year 3 are attributable to Taxpayer’s interest in Entity 1. Taxpayer failed to file proper elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg.

In re: PLR-132536-06

§ 1.1503-2T(g)(2)(i), as applicable, for the losses attributable to its interest in Entity 1. Taxpayer also failed to file annual certifications pursuant to Treas. Reg. § 1.1503-2(g)(2)(vi)(B) or Treas. Reg. § 1.1503-2T(g)(2)(vi)(B), as applicable, for the Year 1 through 3 losses attributable to its interest in Entity 1.

Treas. Reg. § 301.9100-1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, the filings described in Treas. Reg. § 1.1503-2(g)(2) or Treas. Reg. § 1.1503-2T(g)(2), as applicable, are regulatory elections as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a). Based on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a).

Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the Elections and Annual certifications described in this letter for the losses attributable to its interest in Entity 1.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the Elections and Annual Certifications. Treas. Reg. § 301.9100-1(a). A copy of this ruling letter should be associated with the election agreements and annual certifications that are the subject of this ruling.

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent. No ruling has been requested,

In re: PLR-132536-06

and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to Taxpayer's authorized representatives.

Sincerely,

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Michael A. DiFronzo  
Deputy Associate Chief Counsel  
(International)

Enclosure:  
Copy for 6110 purposes